Pao Discrimination Case: Right Issue; Wrong Case

The recent trial and verdict in favor of well-known Silicon Valley venture capital firm Kleiner Perkins Caufield & Byers received intense publicity. Although a technical win for the firm, Ellen Pao did manage to convince at least four jurors that she had been discriminated and retaliated against. Watch for more discrimination cases to follow her lead.


Want to avoid this fate? Executives and managers should:

- **Document, document, document.** The defense (and apparently the jury) placed great emphasis on the fact that Pao's alleged performance issues were well documented by the firm. Kleiner Perkin's attention to this detail is unusual, in my experience. Most critiques are sadly lacking in useful information and feedback, despite the way employment attorneys harp on this point.

- **Policies matter.** Kleiner Perkins created embarrassing moments in the trial when they had to admit that they could not find the firm's written equal employment opportunity or non-discrimination policies. It's management 101 that these should be available and well-distributed.

- **Root out subtle discrimination and bias.** Pao argued that she was excluded from many male only events and dinners, as well as criticized for certain traits such as assertiveness and confidence for which male co-workers receive praise. These kinds of subtle or unintended acts may reflect - or be perceived as reflecting - bias. Even though the firm prevailed, their reputation was damaged and having these kinds of awkward accusations hurled at you in court will not add to your public prestige.

For more information on preventing discrimination and retaliation in the workplace, please email me at: Lynne@workplacesthatwork.com.

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